

South-Western City School District
Bylaws & Policies

**~~4162.01 - DRUG AND ALCOHOL TESTING FOR SOUTH-WESTERN CITY
SCHOOL EMPLOYEES~~**

~~School bus drivers, other employees, and applicants for employment who (1) as a condition of employment are required to obtain a commercial driver's license (hereinafter referred to as "drivers") or (2) as part of their employment duties, regardless of whether they are required to hold a commercial driver's license, drive School District vehicles and who are listed below (hereinafter referred to as "drivers") are subject to a drug and alcohol testing program that fulfills the requirements of the Omnibus Transportation Employee Testing Act of 1991, its attendant regulations, Board of Education policy EEAGD and these regulations. All drivers in South-Western City School District who are included in 1 and 2 above are identified in the following list.~~

-	Superintendent	Custodial Supervisor
-	-	-
-	Small Equipment Repair	Bus Drivers
-	-	-
-	Computer Repairs	Mechanics
-	-	-
-	Pony Driver	Fuelers
-	-	-
-	Custodial Supplies	Transportation Supervisors
-	-	-
-	All Maintenance-I	Drivers
-	-	-
-	Specialists/Foremen	Maintenance Supervisors
-	-	-
-	Food Transporters and Supervisor	-
-	-	-
-	Primary Head Start/Even Start Van	-

~~Required provisions of the Omnibus Transportation Employee Testing Act of 1991 and its attendant regulations (hereinafter collectively referred to as "the Testing Act"), as well as other required provisions of applicable Federal and State law and regulations apply to the drug and alcohol testing of drivers regardless of whether such provisions are included in these Regulations.~~

~~References to tests in these regulations include both drug and alcohol tests unless the context specifies otherwise.~~

~~The terms drugs and controlled substances are interchangeable and have the same meaning. That is, "drugs" and "controlled substances" mean any drug subject to Federal and/or State regulations as to manufacture, distribution, sale and use, including, but not limited to, marijuana, cocaine, opiates (including heroin), phencyclidine (PCP), and amphetamines.~~

~~The term "alcohol" means the intoxicating agent in beverage alcohol, ethyl alcohol, and as is otherwise defined in 49 C.F.R. 382.107 (see appendix). References to the use or possession of alcohol include use or possession of any beverage, mixture, or preparation, including medication or any over-the-counter substances containing alcohol.~~

~~The term "safety-sensitive function" is as defined in 49 C.F.R. 382.107 (see appendix).~~

~~The term "substance abuse professional" is as defined in 49 C.F.R. 382.107 (see appendix).~~

Prohibited Conduct

~~Drivers are prohibited from the manufacture, distribution, dispensation, possession, use, or being under the influence of drugs and/or alcohol while engaged in work or while in the workplace. "Workplace" includes any school building, school property, school-owned vehicles or school approved vehicle used for school business or activities on or off school property during any school sponsored or school-related activity, event, or function. Use includes having concentrations of a drug or drugs in the driver's system that results in a positive drug test regardless of the time the drug was introduced into the driver's body.~~

~~The possession or use of any controlled substance is prohibited unless such substance has been prescribed by a licensed physician and the controlled substance has been used according to the prescription. A driver who is required to perform safety-sensitive functions may not report for duty requiring the performance of a safety-sensitive function when the individual uses any controlled substance unless the use is pursuant to the prescription and instructions of a physician who has advised the driver that the substance will not adversely affect his/her ability to safely operate a commercial motor vehicle. Drivers must inform their supervisor any and all times when they are using a controlled substance which their physician has prescribed for therapeutic purposes.~~

~~Alcohol misuse that affect the performance of drivers is prohibited including: (1) use of alcohol while on duty; (2) use during the four (4) hours before driving a vehicle or performing a safety-sensitive function; (3) having prohibited concentrations of alcohol in the driver's system regardless of the time the alcohol was ingested; and (4) use of alcohol during the eight (8) hour period immediately following any accident involving employment. In addition, no driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having a breath alcohol concentration of 0.02 or greater.~~

~~A driver is prohibited from performing safety-sensitive functions after a drug test result indicates a violation of prohibited conduct pursuant to these regulations.~~

~~A driver is prohibited from performing safety-sensitive functions after an alcohol test result indicating a violation of prohibited conduct pursuant to these Regulations including, but not limited to, indicating a 0.02 or greater breath alcohol concentration (BAC).~~

~~Drivers are prohibited from refusing to take a required drug or alcohol test and such refusal will be treated as if the driver had failed the drug test or had a result in an alcohol test of 0.02 or greater breath alcohol~~

~~concentration.~~

Testing for Drugs

~~Testing for drugs shall conform with the requirements of the Testing Act, including any requirements in addition to those stated herein. Testing results to be reported to the School District shall be at the level required to be reported by Federal law. The testing for drugs is a two (2) stage process that involves analyzing a driver's urine specimen. First, a screening test is performed. If it is positive for one (1) or more of the drugs tested, then a confirmation test is performed for each identified drug using gas chromatography/mass spectrometry (GC/MS) analysis. All urine specimens will be analyzed for marijuana, cocaine, opiates (including heroin), phencyclidine (PCP) and amphetamines (including methamphetamines) and/or as otherwise required by State and/or Federal law.~~

~~Drivers who are to be tested must report to the designated collection site to provide a urine specimen. The collection site will send the specimen bottles to an authorized lab for analysis. The chain-of-custody and collection requirements of the Testing Act are to be followed by the collection site and lab.~~

~~The urine sample provided by the driver is split into two (2) specimen bottles. If the lab analysis of one (1) specimen confirms the presence of controlled substances, the driver has seventy-two (72) hours to request that the second specimen bottle be sent to another certified lab for analysis, providing a second analysis and opinion. The driver is fully responsible for all costs related to the second analysis and opinion except that if the second analysis is negative the Board will pay for the cost of the second analysis.~~

~~If the first specimen reports a positive result, the driver is contacted by a Medical Review Officer involved in the lab analysis to determine if there is an alternative explanation for the positive result. If the Medical Review Officer determines that there is a legitimate medical use of the prohibited drug, the drug test result is reported as negative to the School District which is provided with the testing results. If the Medical Review Officer is unable to contact the driver directly, the Medical Review Officer will contact the driver's supervisor or Superintendent's designee. The supervisor or designee shall attempt to contact the driver to request that the driver contact the Medical Review Officer. The supervisor or designee should attempt to contact the driver as soon as practicable but prior to dispatching the driver or within twenty-four (24) hours from the time the Medical Review Officer contacted the supervisor or designee, whichever is earlier.~~

~~A blood test may also be used under certain limited circumstances as permitted to the Testing Act.~~

~~Random drug testing may be conducted at the School District bus garage or off school premises as determined by the School District. All other testing will be conducted off School District premises.~~

Testing for Alcohol

~~Testing for alcohol shall conform with the requirements of the Testing Act, including any requirements in addition to those stated herein. Testing for alcohol is generally by use of an evidential breath testing device (EFTD) that meets the requirements of the Testing Act. A screening test is conducted first. Any result less than 0.02 alcohol concentration is considered a negative test. If the alcohol concentration is 0.02 or greater, a second confirmation test must be conducted. In the event that the screening and confirmation test results are not identical, the confirmation test result is deemed to be the final result upon which any action to comply with the Testing Act and these regulations shall be based.~~

~~Alcohol testing will be conducted by qualified persons contracted with by the School District to perform such testing.~~

~~A blood alcohol test may also be used under certain limited circumstances as permitted by the Testing Act.~~

~~Random alcohol testing may be conducted at the School District bus garage or off school premises as determined by the School District. All other testing will be conducted off School District premises.~~

~~Pre-employment/Pre-duty Tests~~

~~The tests will be required of an applicant for a position requiring a commercial driver's license or driving of school vehicles after the applicant has been offered the position but prior to employment. Employment with the District is conditional upon the applicant receiving a negative drug test result and an alcohol test result of less than 0.02 breath alcohol concentration, and otherwise meeting the requirements as specified herein and in the Testing Act.~~

~~Current employees of the School District who (1) apply for and are offered a position which, as a condition of employment, requires a commercial driver's license or requiring driving of School District vehicles and (2) do not, at the time of the offer of the position, hold a position in the School District for which a commercial driver's license is required as a condition of employment or for which driving of School District vehicles is required will be treated as applicants who must meet the pre-employment testing requirements of these regulations and the Testing Act to be employed in the position for which s/he applied.~~

~~Post-Accident Tests~~

~~As soon as practicable, but within two (2) hours after the time of accident, the School District shall test the driver for alcohol. As soon as practicable, but within thirty-two (32) hours after the time of the accident, the driver shall be tested for drugs. Such tests will be conducted on any driver after an accident that occurs during a driver's work hours and/or at any activity or function related to employment with South-Western City Schools when the driver:~~

- ~~- A. was performing safety-sensitive functions with respect to the vehicle and the accident involved loss of human life; or~~
- ~~- B. was performing safety-sensitive functions with respect to the vehicle and received a citation under State or local law for a moving traffic violation arising out of the accident.~~

~~No driver involved in such an accident may use alcohol for eight (8) hours after the accident or until after the driver undergoes a post-accident alcohol test, whichever occurs first.~~

~~If an alcohol test is not administered within two (2) hours or if a drug test is not administered within thirty-two (32) hours after the time of the accident, the District will, to the extent required by the Testing Act, prepare, maintain, and submit a report explaining why the test was not conducted within such time frame. No post-accident drug test shall be administered more than thirty-two (32) hours after the accident and no post-accident alcohol test shall be administered more than eight (8) hours after the accident.~~

~~The results of a breath or blood test for the use of alcohol or a urine or blood test for the use of drugs conducted by authorized Federal, State or local officials may fulfill post-accident testing requirements if the results are obtained by the School District and the testing meets the requirements of the Testing Act. It is in the sole discretion of the Superintendent or designee to determine whether to accept a test conducted by authorized Federal, State, or local officials to fulfill post-accident testing requirements.~~

~~Before any driver performs a safety-sensitive function, the District will provide him/her with post-accident procedures and instructions that will make it possible to comply with post-accident testing requirements. Any driver subject to post-accident testing who leaves the scene of an accident before a test is administered or fails to remain readily available for testing may be deemed by the School District to have refused to submit to the test.~~

~~Random Tests~~

~~Tests will be conducted on a random basis at unannounced times throughout the year. Random tests for alcohol and drugs will be conducted just before, during or just after the performance of safety-sensitive functions. Once notified of selection for drug testing, a driver must proceed immediately to a collection site to provide a urine specimen. Once notified of selection for alcohol testing, a driver must proceed immediately to the testing site.~~

~~Drivers will be selected by a scientifically valid random process, in which each driver will have an equal chance of being tested each time selections are made. The number of bus drivers selected for random testing will be in accordance with the Testing Act.~~

~~Reasonable Suspicion Tests~~

~~Tests must be conducted when a supervisor or administrator, who has been trained according to the requirements of the Testing Act, has reasonable suspicion to believe that the driver has violated the District's alcohol or drug prohibitions. This reasonable suspicion must be based on specific contemporaneous, articulable observations including, but not limited to, the driver's appearance, behavior, speech or body odors. The observations may include indications of chronic drug or alcohol use and/or withdrawal effects of controlled substances. Documentation of the grounds for reasonable suspicion must be made and signed by the supervisor/administrator within twenty-four (24) hours of the observed behavior or before the results of the test are released, whichever is earlier.~~

~~If an alcohol test is not administered within two (2) hours or a drug test is not administered within thirty-two (32) hours of a determination of reasonable suspicion, the District will prepare and maintain a record explaining why this was not done. Attempts to conduct alcohol tests will terminate after eight (8) hours of a determination of reasonable suspicion. Any driver who does not permit such drug and/or alcohol testing or make himself/herself reasonably available for such testing is considered to have refused to take such tests.~~

~~If reasonable suspicion exists but a breath alcohol test or drug cannot be administered, the driver shall be removed from performing safety-sensitive duties for at least twenty-four (24) hours.~~

~~Records and Confidentially~~

~~Employee drug and alcohol test results and records shall be considered part of the employee's medical record and shall be confidential except for information and records relevant to discipline or discharge of an employee for violation of these Regulations and/or the Testing Act or as required by law to be released. Upon written request, a driver will receive copies of any records pertaining to the driver's use of drugs or alcohol, including any records pertaining to his/her drug or alcohol tests. Records will be made available to a subsequent employer or other identified persons only as expressly requested in writing by the driver or as required by law.~~

~~Notifications~~

~~Each driver will receive educational materials that explain the requirements of the Code of Federal Regulations, Title 49, Part 382, together with a copy of the driver's policy and regulations for meeting such requirements. Representatives of employee organizations will be notified of the availability of this information. The information will identify:~~

- ~~- A. the person designated by the Superintendent to answer driver questions about the materials;~~

- ~~B. categories of drivers who are subject to the drug and alcohol testing requirements;~~
- ~~C. sufficient information about the safety-sensitive functions performed by drivers to make clear for what period of the work day driver compliance is required;~~
- ~~D. specific information concerning driver conduct that is prohibited;~~
- ~~E. circumstances under which a driver will be tested for drugs and/or alcohol;~~
- ~~F. procedures that will be used to test for the presence of drugs and alcohol, protect the driver and the integrity of the testing processes, safeguard the validity of test results and insure that test results are attributed to the correct driver;~~
- ~~G. the requirement that a driver submit to drug and alcohol tests administered in accordance with Federal regulations and these regulations;~~
- ~~H. an explanation of what constitutes a refusal to submit to a drug or alcohol test and the attendant consequences;~~
- ~~I. consequences for drivers found to have violated the drug and alcohol prohibitions including the requirement that the driver be removed immediately from safety-sensitive functions and the procedures for referral, evaluation and treatment;~~
- ~~J. consequences for drivers found to have an alcohol concentration of 0.02 or greater but less than 0.04; and~~
- ~~K. information concerning the effects of drugs and alcohol on an individual's health, work and personal life; external and internal signs and symptoms of a drug or alcohol problem, and available methods of intervening when a drug or alcohol problem is suspected including confrontation, referral to an employee assistance program and/or referral to administrative officials.~~

~~Each driver must sign a statement certifying that s/he has received a copy of the above materials.~~

~~The District will inform drivers before drug and alcohol tests are performed that the test is required by the Testing Act.~~

~~The District will notify a driver of the results of the pre-employment drug and/or alcohol test if the driver requests such results within sixty (60) calendar days of being notified of the disposition of his/her employment application. The District will notify a driver of the results of random, reasonable suspicion, post-accident, return-to-duty, and follow-up drug tests if the test results are verified positive or alcohol test if the test results are above 0.02 breath alcohol concentration. The District also will tell the driver which controlled substances were verified as positive.~~

~~Enforcement and Consequences for Violation~~

~~Any driver who refuses to submit to post-accident, random, or reasonable suspicion tests will be immediately removed from or continue to be removed from safety-sensitive functions and shall be treated as if the driver had a verified positive drug test or had failed to pass an alcohol test at the level required in these Regulations and the Testing Act. Any applicant who refuses to submit to a pre-employment test shall not be employed by the District.~~

~~If a driver tests positive for drugs or has an alcohol test indicating a 0.02 or greater breath alcohol concentration, the driver shall be immediately removed from safety-sensitive job duties. It shall be grounds for termination from employment with the School District when any driver tests positive for drugs or has an alcohol test indicating a 0.02 or greater breath alcohol concentration. Any applicant who tests positive for drugs or has an alcohol test indicating a 0.02 or greater breath alcohol concentration shall not be employed by the District.~~

~~A driver who violates District prohibitions related to drugs and alcohol will be advised by the School District of resources available to the driver on evaluating and resolving problems associated with the misuse of alcohol and drugs, including the names, addresses and telephone numbers of substance abuse professionals and counseling and treatment programs available to evaluate, treat, and resolve drug and alcohol-related problems. The School District is not obligated in any way to provide such information to a driver/applicant who refuses to submit to any test or fails a pre-employment test. The School District is not obligated in any way whatsoever to provide or pay for rehabilitation, evaluation, or treatment.~~

~~A driver who tests positive for drugs or has an alcohol test indicating a 0.02 or greater breath alcohol concentration is considered to have committed an offense of a serious nature which represents grounds for the termination of employment. Any such termination shall be subject to the due process rights of the employee and the applicable Board policies and laws governing the termination of School District employees. A driver who tests positive for drugs or has an alcohol test indicating a 0.02 or greater breath alcohol concentration shall be suspended without pay pending termination proceedings. The suspension without pay shall be pursuant to Section 1101.45(3) of the negotiated agreement and the termination shall be pursuant to Section 1101.45(4) of the negotiated agreement. The School District may proceed directly to the step of Section 1101.45(3) "Suspension" for suspension and/or Section 1101.45(4) "Termination" for termination without application of any other steps in Section 1101.45 "The Constructive Discipline Process." Any suspension pending termination will be on an unpaid status. If an employee is found to be innocent of violating the drug and alcohol policy, back pay would be issued for the employee's suspended time. Appeals from an order of termination shall be pursuant to Section 401.5 "Appeal to Civil Service" of the negotiated agreement. If a driver tests positive for drugs or has an alcohol test indicating a 0.02 or greater breath alcohol concentration and is not terminated, the driver must comply with all requirements of the Testing Act before returning to duty in safety-sensitive functions including, but not limited to, return to duty and follow up testing.~~

Other

~~Drivers shall be paid their appropriate hourly rate for all time required for mandatory drug and alcohol testing pursuant to these regulations and the Testing Act. When tested pursuant to reasonable suspicion testing, drivers shall be paid their appropriate hourly rate for hours they would have regularly worked for their regularly assigned daily job responsibilities until the results of the testing is obtained by the School District. Drivers will be transported by the School District to the testing site for post-accident and reasonable suspicion testing.~~

Appendix A

DEFINITIONS

~~For the purposes of the Drug and Alcohol Guidelines, the following definitions shall apply:~~

Alcohol—the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

Alcohol Test—a breath test using an evidential breath testing device (DBT) is the method of testing used to detect the level of alcohol (see Evidential Breath Test definition below). Both a screening test and a confirmation test must be used to establish a positive test result. The DOT is currently considering whether to use alternative methods of testing, such as blood or saliva testing, as a back-up method for reasonable suspicion and post-accident tests when an EBT is not available.

Alcohol Concentration—means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test.

Alcohol Use—means the consumption of any beverage, mixture, or preparation including any medication containing alcohol.

Breath Alcohol Technician (BAT)—a trained individual who instructs and assists individuals in the alcohol testing process and operates an Evidential Breath Testing Device (EBT).

Commercial Motor Vehicle—a motor vehicle used in commerce to transport passengers or property if the motor vehicle (1) has a gross vehicle weight rating (GVWR) in excess of 26,000 pounds, or (2) is designed to carry sixteen (16) or more passengers (including the driver), (3) of any size, which is used in the transportation of a placardable amount of hazardous material.

Confirmation Test—for alcohol testing means a second test, following a screening test with a result of .02 or greater, that provides quantitative data of alcohol concentration.

For drug testing, means a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screen test, and which uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy, generally a Gas Chromatography/Mass Spectrometry (GS/MS).

District Property—includes buildings, offices, warehouses, plants, facilities, land, equipment, vehicles which are owned, leased or used for District business and parking lots owned, utilized or leased by the District or any customer or supplier of the District. It also includes any other site at which the District business is transacted whether on or away from the District owned or leased property.

Drugs or Controlled Substance—any drug included in Schedules I through V (refer to Tab 8), as defined by Section 802(6) of Title 21 of the United States Code [21 U.S.C. 802(6)], (e.g. cocaine, marijuana, Valium, morphine) the possession of which is unlawful under Chapter 13 of that title. The term does not include the use of prescribed drugs which have been legally obtained and are being used for the purpose for which they were prescribed.

Drug Paraphernalia—any item which is primarily intended or designed for use in the administering, transferring, manufacturing or storing of a drug or controlled substance and/or an illegally used drug.

Drug Test—a urinalysis (urine) test that includes specimen collection and testing by a Department of Health and Human Services certified laboratory. Both a screening test and a confirmation test must be used to establish a positive test result.

Evidentiary Breath Test (DBT)—a device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and place on NHTSA's "Conforming Product's List of Evidential Breath Measurement Devices".

Illegally Used Drug—any prescribed drug which is legally obtainable but has not been legally obtained or is not being used for prescribed purposes, all designer drugs, and any other over the counter or non-drug substances (e.g. airplane glue) being used for other than their intended purpose. (Note: A designer drug is a man-made drug, or combination of drugs, which is similar in basic scientific properties to a drug or controlled substance and is produced in a clandestine laboratory.)

Medical Review Officer (MRO)—an independent, licensed physician responsible for receiving laboratory drug testing results. The MRO has knowledge of substance abuse disorders and appropriate medical training to interpret and evaluate a positive test as it relates to the employee's medical history and other biomedical information.

~~Reasonable Suspicion of Drug and/or Alcohol Use~~—reasonable suspicion means such suspicion which will justify a supervisor in referring an employee for a drug and/or alcohol test. It is the amount suspicion sufficient to convince a trained supervisor under the circumstances to believe that:

- ~~A. the employee has violated the Alcohol and Drug Guidelines or to believe that the actions, appearance; or~~
- ~~B. the conduct of an on-duty employee are indicative of the use of drugs or alcohol.~~

~~The suspicion must be based/grounded in fact on specific, contemporaneous, articulable observations by a trained supervisor(s) concerning the appearance, behavior, speech, or body odors of the employee. For reasonable suspicion of alcohol misuse such observations must be made during, just preceding or just after the period of the work day that the employee is performing a safety sensitive function. Reasonable suspicion is more than mere suspicion but less than absolute certainty.~~

~~Safety-sensitive Functions~~—Pursuant to the FHWA regulations safety-sensitive functions means any of the following on-duty functions. On-duty means all the time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. On-duty work includes:

- ~~A. all time at a carrier or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the motor carrier;~~
- ~~B. all time inspecting, servicing, or conditioning any commercial motor vehicle or equipment at any time;~~
- ~~C. all driving time;~~
- ~~D. all time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth;~~
- ~~E. all time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded;~~
- ~~F. all time spent performing the driver requirements relating to accidents as required by the FHWA;~~
- ~~G. all time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle;~~
- ~~H. all time spent providing a breath sample or urine specimen, including travel time to and from the collection site, in order to comply with the random, reasonable suspicion, post-accident, or follow-up testing when directed by the District in compliance with the FHWA regulations.~~

~~Safety-sensitive Position~~—any job position deemed by the District to be fraught with such risk, by the nature of the work involved, that even a momentary lapse in attention could have serious consequences to the employee, co-workers or the general public.

~~Screening Test~~—in alcohol testing, it means an analytical procedure to determine whether a driver may have a prohibited concentration in his/her system. In drug testing, it means an immunoassay screen to eliminate "negative" urine specimens from further consideration.

~~Substance Abuse Professional (SAP)~~—means a licensed physician, or a licensed or certified psychologist, social worker, employee assistance professionals or addition counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification commission) with the knowledge of and clinical experience in the diagnosis and treatment of alcohol and drug-related disorders.

~~**Under the Influence of a Drug, Illegally Used Drug and/or Alcohol** the presence of a measurable amount which is .02% or higher breath alcohol content or a verified positive drug test result, at levels specified by the Substance Abuse and Mental Health Services Administration (SAMHSA), for a drug or an illegally used drug.~~

~~Adopted 8/14/95~~